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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/740,744
Filing Date: December 19, 2003
Appellant(s): FRIEDMAN, LEE G.

Scott P. Zimmerman
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 01/25/2008 appealing from the Office action mailed

08/28/2007.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

| Patent No. US 6266571 B1 | Fado et al. | 07-2001 |
| Patent No. US 6789111 B1 | Brockway et al. | 09-2004 |

Matthew et al ("Home Networking with MICROSOFT WINDOWS XP: step by step")

09-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Objections

1.   Applicant's amendment corrects the previous objection and therefore the objection on claim 4 is withdrawn.

Claim Rejections - 35 USC § 101

2.   Applicant's amendment corrects the previous rejections on claims 11-16 and therefore the rejections on claims 11-16 are withdrawn.

Claim Rejections - 35 USC § 103

3.   **Claims 1, 2, 6-8, 11, 17, 18, 20, 21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fado et al (Patent No. US 6266571 B1; hereinafter Fado) in view of Brockway et al (Patent No US 6789111 B1; hereinafter Brockway).**

As to claim 1, Fado teaches:

A computer system (e.g., Fig. 48) comprising:

a processor coupled with memory and with a plurality of externally-accessible input ports (e.g., see Fig. 48 and col. 15 lines 30-38); and

a device discovery system that identifies a user-desired input device among a plurality of substantially similar input devices, wherein the identification is carried out by detecting a signal

that is generated by the user-desired input device in response to a signal stimulus provided by a user (e.g., see Figs. 16-18 and col. 11 lines 12-33).

Fado does not teach polling all the plurality of externally-accessible input ports.

However, Brockway teaches that a system for automatically detecting peripheral devices that are connected to externally-accessible input ports by periodically polling its physical I/O ports for the existence of a connected peripheral devices (e.g., see col. 2 lines 49-62). Brockway further teaches in order for a peripheral identification unit to detect which, if any, peripheral devise are attached to the I/O ports, the unit query the I/O ports, one at a time, for a response from an attached device (e.g., see col. 7 lines 26-44).

Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the polling all the plurality of externally-accessible input ports to identify an input device as taught by Brockway in the computer system as taught by Fado to achieve the claimed invention. As disclosed by Brockway, the motivation for the combination would be to detect identifying signal transmitted by the peripheral devices connected to plurality of externally-accessible input ports (e.g., see col. 7 lines 26-44).

As to claim 8, this claim differs from claim 1 only in that claim 8 introduces a limitation of "to discover a valid connectivity of an audio input device coupled to the computer system" (e.g., note Fado teaches this limitation in Figs. 16-18 and col. 11 lines 12-33). Thus, claim 8 is analyzed as previously discussed with respect to claim 1 above.

As to claim 11, Fado teaches:

A software wizard program stored on a computer-readable media (e.g., see col. 15 lines 45-50), the program comprising:

logic configured to provide instructions to a user for selecting an audio input device from a plurality of substantially similar audio input devices (e.g., see Fig. 3 and col. 6 lines 30-47) that have been communicatively coupled to a first respective plurality of externally-accessible input ports of a computer system (e.g., see Fig. 48 and col. 15 lines 30-38); and

logic configured to identify the user-selected audio input device by detecting a signal that is generated by the user-selected audio input device in response to an audible stimulus that is provided by the user to the user-selected audio input device (e.g., see Figs. 16-18 and col. 11 lines 12-33); and

logic to execute the software wizard program (e.g., see col. 15 lines 45-50).

Fado does not teach polling all the plurality of externally-accessible input ports.

However, Brockway teaches that a system for automatically detecting peripheral devices that are connected to externally-accessible input ports by periodically polling its physical I/O ports for the existence of a connected peripheral devices (e.g., see col. 2 lines 49-62). Brockway further teaches in order for a peripheral identification unit to detect which, if any, peripheral devise are attached to the I/O ports, the unit query the I/O ports, one at a time, for a response from an attached device (e.g., see col. 7 lines 26-44). Thus, combining Fado and Brockway would meet the claimed limitations for the same reasons as discussed with respect to claim 1 above.

As to claim 17, Fado teaches:

A computer system (e.g., see Fig. 48) comprising:

a processor communicating with memory and executing instructions stored in the memory, the instructions comprising logic configured to discover a user-desired input device among a plurality of substantially similar input devices coupled to a respective plurality of externally-accessible input ports of the computer system (e.g., see Fig. 48 and col. 15 lines 30-

38), wherein the discovery is carried out by detecting a signal that is generated by the user-desired input device in response to a signal stimulus provided by a user (e.g., see Figs. 16-18 and col. 11 lines 12-33).

Fado does not teach polling all the plurality of externally-accessible input ports.

However, Brockway teaches that a system for automatically detecting peripheral devices that are connected to externally-accessible input ports by periodically polling its physical I/O ports for the existence of a connected peripheral devices (e.g., see col. 2 lines 49-62). Brockway further teaches in order for a peripheral identification unit to detect which, if any, peripheral devise are attached to the I/O ports, the unit query the I/O ports, one at a time, for a response from an attached device (e.g., see col. 7 lines 26-44). Thus, combining Fado and Brockway would meet the claimed limitations for the same reasons as discussed with respect to claim 1 above.

As to claim 20, Fado teaches:

A method of discovering and configuring a user-desired input device among a plurality of substantially similar input devices coupled to a respective plurality of eternally-accessible input ports of a computer system (e.g., see col. 1 lines 7-13 and Fig. 48, col. 15 lines 30-38), the method comprising:

launching a software wizard to provide instructions to a user (e.g., see Fig. 2);

instructing the user to provide a signal stimulus into the user-desired input device (e.g., see Figs. 16-17);

polling an externally-accessible input ports for response to the signal stimulus (e.g., see Fig. 26);

measuring a first signal amplitude that is received at a first input port of the plurality of externally-accessible input ports, the first signal amplitude generated by a first input device among the plurality of substantially similar input devices (e.g., see item 224 in Figs. 16-17);

measuring a second signal amplitude that is received at a user-desired input port of the plurality of externally-accessible input ports, the second signal amplitude generated by the user-desired input device in response to the signal stimulus provided by the user (e.g., see Fig. 18 and col. 11 lines 12-23); and

processing the first and second signal amplitudes to identify the user-desired input device (e.g., col. 11 lines 23-33).

Fado does not teach polling all the plurality of externally-accessible input ports. However, Brockway teaches that a system for automatically detecting peripheral devices that are connected to externally-accessible input ports by periodically polling its physical I/O ports for the existence of a connected peripheral devices (e.g., see col. 2 lines 49-62). Brockway further teaches in order for a peripheral identification unit to detect which, if any, peripheral devise are attached to the I/O ports, the unit query the I/O ports, one at a time, for a response from an attached device (e.g., see col. 7 lines 26-44). Thus, combining Fado and Brockway would meet the claimed limitations for the same reasons as discussed with respect to claim 1 above.

As to claim 23, Fado teaches:

A computer program product storing computer-readable instructions for performing a method of discovering and configuring an audio output device (e.g., see col. 1 lines 7-13 and Fig. 48, col. 15 lines 30-38), the method comprising:

Instruction a user to select the audio input device from a plurality of substantially similar audio input devices that have been communicatively coupled to a plurality of externally-

accessible input ports of a computer system (e.g., see Figs. 3, 48 and col. 6 lines 30-47, col. 15 lines 30-38);

detecting a signal that is generated by the user-selected audio input device in response to an audible stimulus that is provided by the user to the user-selected audio input device (e.g., see Figs. 16-18 and col. 11 lines 12-33).

Fado does not teach polling all the plurality of externally-accessible input ports.

However, Brockway teaches that a system for automatically detecting peripheral devices that are connected to externally-accessible input ports by periodically polling its physical I/O ports for the existence of a connected peripheral devices (e.g., see col. 2 lines 49-62). Brockway further teaches in order for a peripheral identification unit to detect which, if any, peripheral devise are attached to the I/O ports, the unit query the I/O ports, one at a time, for a response from an attached device (e.g., see col. 7 lines 26-44). Thus, combining Fado and Brockway would meet the claimed limitations for the same reasons as discussed with respect to claim 1 above.

As to claims 2 and 18, Fado further teaches a device configuration system that configures the user-desired input device to operate together with a software application program on the computer system (e.g., see Fig. 34 and col. 1 lines 29-36).

As to claim 6, Fado further teaches wherein the plurality of input ports are coupled to substantially similar audio input devices (e.g., see col. 15 lines 30-38), and the device discovery system identifies the user-desired input device by unmuting an output from the user-desired input device (e.g., see Fig. 8).

As to claim 7, Fado further teaches comprising an output device that is housed together with the user-desired input device in a common enclosure (e.g., see Figs. 3-8).

As to claim 21, Fado further teaches wherein the user-desired input device is an user-desired audio input device (e.g., see col. 15 lines 30-38), and the signal stimulus is an audible signal that is coupled into the user-desired audio input device (e.g., see Fig. 18).

4.   **Claims 3-5, 9-10, 12-16, 19 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fado et al (Patent No. US 6266571 B1; hereinafter Fado) in view of Brockway et al (Patent No US 6789111 B1; hereinafter Brockway) further in view of Matthew et al (ebook titled "Home Networking with MICROSOFT WINDOWS XP: step by step"; hereinafter Matthew).**

As to claim 3, Fado and Brockway teach the limitations of claim 2 for the same reasons as discussed with respect to claim 2 above. Fado further teaches that the microphone and speaker setup taught in Figs. 1-48 can be used for other application as well (e.g., see Fado col. 1 lines 29-36). However, Fado and Brockway do not expressly teach that the software application permits a user of one computer system to communicate with a second user of a second computer system.

In the same field of endeavor of configuring input devices for use with an application (e.g., see Matthew page 2 "using Windows Messenger with Voice and video"), Matthew teaches a software application program is an audio-video communication program that permits the user of the computer system to communicate with a second user of a second computer system (e.g., see page 5), via an audio-video communication link (e.g., see home network or Internet, see page 2).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to include the audio and video tuning wizard feature as taught by Matthew to the computer system as taught by Fado and Brockway to configure input devices that use with

audio-video communication program to permit a user from one computer to communicate with another user of a second user. The motivation for the combination is to allow voice and video conversations that provides users with immersiveness because users are able to speak and see others while online.

   As to claims 4 and 19, Fado, Brockway and Matthew teach the limitations of claims 3 and 18 for the same reasons as discussed above. Matthew further teaches a video chat program (e.g., see page 5). Thus, combining Fado, Brockway and Matthew would meet the claimed limitation for the same reasons as discussed with respect to claim 3 above.

   As to claim 5, Matthew further teaches a digital subscriber line (e.g., see page 2 and page 5). Thus, combining Fado, Brockway and Matthew would meet the claimed limitation for the same reasons as discussed with respect to claim 3 above.

   As to claim 9, Fado and Brockway teach the limitations of claim 8 for the same reasons as discussed above. Matthew further teaches comprising a video input device coupled to any second one of a plurality of externally-accessible input ports of a computer system (e.g., video camera that is obviously connected to a computer, see page 2 and page 3); and wherein the device discovery system polls the plurality of input ports to discover a valid connectivity of the video input device to the computer system by detecting a signal that is generated by the video input device in response to a user providing a visual stimulus to the video input device (e.g., see page 3). Thus, combining Fado, Brockway and Matthew would meet the claimed limitation for the same reasons as discussed with respect to claim 3 above.

As to claim 10, Fado further teaches the device discovery system unmutes the audio input device to discover the valid connectivity of the audio input device to the computer system (e.g., see Fig. 8).

As to claim 12, Fado and Brockway teach the limitations of claim 11 for the same reasons as discussed above. Matthew further teaches comprising:

logic configured to provide instructions to a user for selecting a video input device from a plurality of substantially similar video input devices that have been communicatively coupled to a second respective plurality of externally-accessible input ports of the computer system (e.g., steps 3 and 4 in page 3; note that it is obvious that camera(s) is/are connected to input ports of a computer);

logic configured to provide a dropdown list showing device identification labels for each of the plurality of video input devices (e.g., step 4 in page 3); and

logic configured to provide instructions to the user in selecting a video input device from the dropdown list (e.g., step 4 in page 3). Thus, combining Fado, Brockway and Matthew would meet the claimed limitation for the same reasons as discussed with respect to claim 3 above.

As to claim 13, Matthew further teaches comprising: logic configured to identify the user-selected video input device by detecting a signal that is generated by the user-selected video input in response to a visual stimulus signal that is provided by the user to the user-selected video input device (e.g., see page 3). Thus, combining Fado, Brockway and Matthew would meet the claimed limitation for the same reasons as discussed with respect to claim 3 above.

As to claim 14, Fado further teaches comprising:

logic configured to provide instructions to the user for selecting an audio output device

from a plurality of audio output devices (e.g., see Fado Fig. 3 and col. 6 lines 30-47) that have

been communicatively coupled to a first respective plurality of externally-accessible output ports

of a computer system (e.g., see Fado Fig. 48 and col. 15 lines 30-38);

logic configured to provide a dropdown list showing device identification labels for each

of the plurality of audio output devices (e.g., see Fado Fig. 3 and Fig. 4);

logic configured to provide instructions to the user in selecting the audio output device

from the dropdown list (e.g., see Fado Fig. 4); and

logic configured to generate an audible test tone from the selected audio output device

(e.g., see Fado Fig. 9).

As to claim 15, Fado further teaches comprising:

logic configured to provide a volume control icon (e.g., see Fig. 9);

logic configured to provide instructions to the user to operate the volume control icon to

set a desired volume of the selected audio output device (e.g., see Fig. 9 and Figs. 34-38); and

logic configured to generate an audible test tone corresponding to the desired volume,

from the selected audio output device (e.g., see Fig. 9 and Figs. 34-38).

As to claim 16, Fado further teaches wherein the first and second respective plurality of

externally-accessible input ports are respectively common ports (e.g., see Fado Fig. 47).

As to claim 22, Fado and Brockway teach the limitations of claim 20 for the same

reasons as discussed above. Matthew further teaches wherein the user-desired input device is

an user-desired video input device (e.g., see page 2 and page 3) and the signal stimulus is a

visual signal that is coupled into the user-desired audio input device (see page 3 and page 4).

Thus, combining Fado, Brockway and Matthew would meet the claimed limitation for the same

reasons as discussed with respect to claim 3 above.

(10) Response to Argument

I.   **The appellants remark (Appeal Brief dated 01/25/2008 pages 9, 10)** that the examiner has

failed to properly respond to the Appellants' arguments presented in the Amendment After Final.

In response, the examiner respectfully disagrees. Contrary to appellants' argument, the

examiner has clearly addressed the appellants' argument regarding the "teach away" argument

as addressed on page 3 of the 11/14/2007 Advisory Action. For clarity, the examiner's

response is reproduced below:

> Continuation of 11. does NOT place the application in condition for allowance because: Applicant argues that the prior art of Fado
> teaches away from the claimed invention. Specifically, Applicant argues that the prior art of Fado only polls a device port that has been
> manually selected by a user while the prior art of Brockway continuously/automatically polls the I/O ports for the existence of a peripheral
> device (e.g., see Applicant's remark pages 8-10).
> Examiner respectfully disagrees and submits that the prior art of Fado does not teach away from the claimed invention. The prior art of
> Fado provides the ability to detect or poll multiple ports in a computer system (e.g., see Fig. 3, note multiple sound cards in a computer
> system can be detected and the list of available sound cards is available for a user to select for further configuration). The examiner then
> admits that Fado does not teach polling all the plurality of externally-accessible input ports; however, Brockway teaches that a system for
> automatically detecting peripheral devices that are connected to externally-accessible input ports by periodically polling its physical I/O
> ports for the existence of a connected peripheral devices (e.g., see col. 2 lines 49-52). Brockway further teaches in order for a peripheral
> identification unit to detect which, if any, peripheral devise are attached to the I/O ports, the unit query the I/O ports, one at a time, for a
> response from an attached device (e.g., see col. 7 lines 26-44). Accordingly, it would have been obvious to one of ordinary skill in the art
> at the time the invention was made to include the polling all the plurality of externally-accessible input ports to identify an input device as
> taught by Brockway in the computer system as taught by Fado to achieve the claimed invention. As disclosed by Brockway, the
> motivation for the combination would be to detect identifying signal transmitted by the peripheral devices connected to plurality of
> externally-accessible input ports (e.g., see col. 7 lines 26-44).

As can be seen above, the examiner factually presents why the combination of Fado

and Brockway can be established. Therefore, appellants' assertion that the examiner provides

no factual basis for their disagreement is factually incorrect.

II.   **The appellants remark (Appeal Brief dated 01/25/2008 pages 10, 11)** that the examiner has

failed to carry the burden of responding to the Appellants' "impermissible changes" argument.

In response, the examiner respectfully disagrees. As can be seen from the previous

response, the examiner has addressed the reasons why Fado does not teach away from the

claimed invention as well as why Fado does not teach away from Brockway. The examiner has

stated that _the prior art of Fado provides the ability to detect or poll multiple ports in a computer_

system (e.g., see Fig. 3; note multiple sound cards in a computer system can be detected and

the list of available sound cards is available for a user to select for further configuration). This

response explains why the teaching of Fado can be modified with the teachings of Brockway to

achieve the feature of polling all the plurality of externally-accessible input ports. Therefore,

appellants' assertion that the Office presents no facts in support of their response is factually

incorrect.

III.   **The appellants remark (Appeal Brief dated 01/25/2008 pages 11, second paragraph)** that the
         final rejection of the pending application should be withdrawn.

         In response, the examiner notes that this issue relates to petitionable subject matter

under 37 CFR 1.181 and not to appealable subject matter. See MPEP § 1002 and § 1201.

IV.   **The appellants remark (Appeal Brief dated 01/25/2008 pages 11, 12)** that the prior art of Fado
         requires "Impermissible Changes" and cannot support the 103(a) rejection of the claims.

         In response, the examiner directs the appellants to MPEP §2123 that the prior art's mere

disclosure of more than one alternative does not constitute a teaching away from any of these

alternatives because such disclosure does not criticize, discredit, or otherwise discourage the

solution claimed...." In re Fulton, 391 F.3d 1195, 1201, 73 USPQ2d 1141, 1146 (Fed. Cir.

2004). In this case, the prior art of Fado teaches a method and a system for configuring one or

more microphones, one or more speakers, one or more sound cards and one or more audio

mixers for user with a speech recognition application (e.g., see col. 1 lines 7-13). Fado teaches

a computer system comprising a processor coupled with memory and with a plurality of

externally-accessible input ports (e.g., see Fig. 48 and col. 15 lines 30-38), a device discovery

system that identifies a user-desired input device among a plurality of substantially similar input devices, wherein the identification is carried out by detecting a signal that is generated by the user-desired input device in response to a signal stimulus provided by a user (e.g., see Figs. 16-18 and col. 11 lines 12-33).

While Fado teaches the ability to detect or poll multiple ports in a computer system (e.g., see Fig. 3; note multiple sound cards in a computer system can be detected and the list of available sound cards is available for a user to select for further configuration), Fado does not expressly teach polling all the plurality of externally-accessible input ports to identify a user-desired input device among a plurality of substantially similar input device. However, Brockway teaches a system for automatically detecting peripheral devices that are connected to externally-accessible input ports by periodically polling its physical I/O ports for the existence of a connected peripheral devices (e.g., see col. 2 lines 49-62). Brockway further teaches in order for a peripheral identification unit to detect which, if any, peripheral devise are attached to the I/O ports, the unit query the I/O ports, one at a time, for a response from an attached device (e.g., see col. 7 lines 26-44).

Because the system disclosed in Fado provides the ability to detect or poll multiple ports in a computer system, the skilled artisan at the time the invention was made would recognize that the teaching of Fado can be modified with the teaching of Brockway to include the feature of polling all the plurality of externally-accessible input ports to identify a user-desired input device among a plurality of substantially similar input device in the case where there is no requirement for the user to identify the configured input device. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include the polling all the plurality of externally-accessible input ports to identify an input device as taught by Brockway in the computer system as taught by Fado to achieve the claimed invention. As

disclosed by Brockway, the motivation for the combination would be to detect identifying signal

transmitted by the peripheral devices connected to plurality of externally-accessible input ports

(e.g., see col. 7 lines 26-44).

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related

Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

/TuyetLien T Tran/
Examiner, Art Unit 2179

Conferees:

/Weilun Lo/
Supervisory Patent Examiner, Art Unit 2179

/Ba Huynh/
Primary Examiner, Art Unit 2179